REMARKS

Claims 1-19 are pending in the present application. Reconsideration of the pending claims is requested in view of the following explanations.

Applicants note with appreciation the acknowledgment of the claim for foreign priority and the indication that all certified copies of the priority documents have been received.

In response to the Examiner's objections to claims 4 and 11, these claims have been rewritten to correct typographical errors. Withdrawal of the objections is respectfully requested. In addition, claim 1 has been rewritten to correct a typographical error.

Claims 1, 9, 10 and 17 are rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 5,771,287 ("Gilley"). Applicants respectfully submit that the rejection should be withdrawn for at least the following reasons.

To anticipate a claim under § 102(b), a single prior art reference must identically disclose each and every claim element. See Lindeman Machinenfabrik v. American Hoist and Derrick, 730 F.2d 1452, 1458 (Fed. Cir. 1984). If any claimed element is absent from a prior art reference, it cannot anticipate the claim. See Rowe v. Dror, 112 F.3d 473, 478 (Fed. Cir. 1997). Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claim invention, arranged exactly as in the claim. Lindeman, 703 F.2d 1458 (Emphasis added). Additionally, not only must each of the claim limitations be identically disclosed, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed invention, namely the inventions of the rejected claims, as discussed above. See Akzo, N.V. v. U.S.I.T.C., 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986).

Independent claim 1 recites, in relevant parts, "a plurality of modules including a microprocessor and at least one storage module for storing code and data for the microprocessor, at least one of the modules storing **a serial number of the at least one module** in a non-exchangeable manner; an arrangement for storing a code number, **the code number being obtained from the serial number** by using an encryption method, and for storing information required to calculate the serial number from the code number, wherein the microprocessor is adapted to **calculate a serial number from the code number** on the basis of the information, to **compare the calculated serial number to the stored serial number**, and to execute or not

execute at least part of the code as a function of a result of the comparison." Claim 10 recites substantially similar method features as the above-recited features of claim 1. While the Examiner cites col. 4, l. 12-49 Gilley as teaching all of the claimed features of claims 1 and 10, nothing in Gilley actually teaches or suggest the above-recited claimed features of claims 1 and 10, in particular the claimed feature that "the microprocessor is adapted to **calculate a serial number from the code number** on the basis of the information, to **compare the calculated serial number to the stored serial number**, and to execute or not execute at least part of the code as a function of a result of the comparison." This distinction will be explained in detail below.

Col. 4, l. 1-52 of Gilley discloses the following: a) a unique serial number is assigned to each programmable device (col. 4, l. 1-2); b) a "secret key" (a randomly generated number) is correlated to each serial number and stored at a secure location (e.g., manufacturer) and also programmed into the memory of the scrambler of the programmable device (col. 4, l. 2-5 and 8-10); c) an "operation mode" code (which instructs the programmable device to enable a selected feature set) is also programmed into the memory of the scrambler of the programmable device (col. 4, l. 5-10); d) an "authentication" code is initially calculated based on the secret key, the operation mode code and a cryptographic method, and the calculated authentication code is programmed into the memory of the programmable device (col. 4, l. 12-15); e) each time the programmable device is turned on, a "present authentication code" value is calculated based on the secret key, the "then present operation mode code stored in the programmable device" and the "same cryptographic program as the manufacturer used" (col. 4, l. 17-22); f) the "present authentication code" is compared to the originally stored authentication code, and "if the two authentication codes match, the programmable device will be authorized to function with the then present feature set defined by the then present operation mode code" (col. 4, l. 22-28); and g) if the two authentication codes do not match, the programmable device can take a number of different actions, e.g., prohibiting certain function, not operating at all, or defaulting to a lower feature set (col. 4, l. 28-33). The disclosure of col. 4, l. 34-52 substantially reiterates the disclosure of col. 4, l. 1-33.

As can be seen from above, what Gilley actually discloses is calculating a **"present authentication code" based on the secret key and the operation mode code**, and then comparing the **"present authentication code" to the originally stored authentication code** to determine whether the operation is authorized. However, the "authentication code" and the "present authentication code" disclosed in Gilley are clearly not equivalent to the presently

claimed "serial number" of claims 1 and 10, particularly since the Examiner explicitly contends that the "authentication code" and/or the "present authentication code" disclosed in Gilley satisfy the claimed "code number" of claims 1 and 10 (see, e.g., Office Action, p. 3, l. 7-11). In addition, to the extent the Examiner may be contending that the "serial number" and/or the associated "secret key" of Gilley are somehow equivalent to the presently claimed "serial number" of claims 1 and 10 (see, e.g., Office Action, p. 3, l. 1-3), Applicants note that Gilley clearly does not teach or suggest **calculating "a serial number from the code number** on the basis of the information [required to calculate the serial number from the code number]," and **comparing "the calculated serial number to the stored serial number**," as recited in claim 1 (and similarly recited in claim 10).

For at least the foregoing reasons, claims 1 and 10, as well as their dependent claims 9 and 17, are patentable over Gilley. Withdrawal of the rejection is requested.

Claims 2-8, 11-16, 18 and 19 were rejected under 35 U.S.C. § 103(a) as obvious over Gilley in view of U.S. Patent No. 6,026,293 ("Osborn"). Applicants respectfully submit that the rejection should be withdrawn, for at least the following reasons.
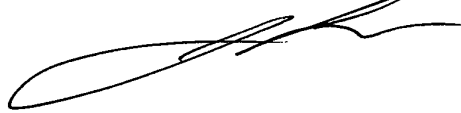
In rejecting a claim under 35 U.S.C. §103(a), the Examiner bears the initial burden of presenting a prima facie case of obviousness. In re Rijckaert, 9 F.3d 1531, 1532, 28 U.S.P.Q.2d 1955, 1956 (Fed. Cir. 1993). To establish prima facie obviousness, three criteria must be satisfied. First, there must be some suggestion or motivation to modify or combine reference teachings. In re Fine, 837 F.2d 1071, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). This teaching or suggestion to make the claimed combination must be found in the prior art and not based on the application disclosure. Second, there must be a reasonable expectation of success. In re Merck & Co., Inc., 800 F.2d 1091 (Fed. Cir. 1986). Third, the prior art references must teach or suggest all of the claim limitations. In re Royka, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

Claims 2-8, 11-16, 18 and 19 depend from claim 1 or claim 10. As noted above, Gilley fails to anticipate parent claims 1 and 10. In addition, Osborn clearly does not overcome the deficiencies of Gilley as applied against claims 1 and 10. Therefore, even if one assumes for the sake of argument that there is some motivation to combine the teachings of Osborn and Gilley, the combination clearly fails to render dependent claims 2-8, 11-16, 18 and 19 obvious.

CONCLUSION

For the foregoing reasons, it is respectfully submitted that all pending claims 1-19 of the present application are in allowable condition. Prompt reconsideration and allowance of the application are respectfully requested.

Respectfully Submitted,

KENYON & KENYON LLP

(R. No. 36,197)

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By: *Jong Lee for Gerard Messina*

Gerard A. Messina
Reg. No. 35,952
One Broadway
New York, New York 10004
Telephone: (212) 425-7200
Facsimile: (212) 425-5288
CUSTOMER NO. 26646